

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
OLD FAYETTEVILLE DIVISION
No. 3:94-CR-46-7H
No. 5:12-CV-490-H

CHARLES EDWARD HERRING,)
)
 Petitioner,)
)
 v.)
)
)
UNITED STATES OF AMERICA,)
 Respondent.)

ORDER

This matter is before the court, on petitioner's Motion for Reconsideration in which petitioner moves the court to reconsider its judgment, entered August 13, 2012, dismissing his 28 U.S.C. § 2255 motion for failure to state a claim upon which relief may be granted.

Courts have generally recognized three grounds for altering or amending judgments. See Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Specifically, courts will alter or amend "an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Id.

The court has carefully reviewed petitioner's motion for reconsideration, as well as the record in this matter, and finds no reason to alter or end its judgment. Accordingly, the court

DENIES petitioner's motion for reconsideration [DE #537 & #550] and reaffirms its judgment entered August 13, 2012, dismissing petitioner's motion to vacate pursuant to Rule 4(b) of the Rules Governing Section 2255 Cases for failure to state a claim upon which relief may be granted.

This order does not raise a substantial issue for appeal concerning the denial of a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This 7th day of May 2013.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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